

Senate Study Bill 1316

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
APPROPRIATIONS BILL BY
CO=CHAIRPERSON DVORSKY)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to settlement of state financial and tort claims,
2 establishing a state liability fund, providing for charging of
3 costs for the fund to state departments, making an
4 appropriation, and providing an effective and applicability
5 date.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 3490XC 81
8 jp/sh/8

PAG LIN

1 1 Section 1. Section 8.6, Code 2005, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 15. STATE TORT CLAIMS == RISK MANAGEMENT
1 4 COORDINATOR. Administer the state liability fund created in
1 5 section 669.11A and perform other duties relating to state
1 6 tort claims under chapter 669. In addition, the director
1 7 shall designate a position within the department to serve as
1 8 the executive branch's risk management coordinator. The risk
1 9 management coordinator shall have all of the following
1 10 responsibilities:
1 11 a. Coordinating and monitoring risk control policies and
1 12 programs in the executive branch, including but not limited to
1 13 coordination with the employees of departments who are
1 14 responsible for the workers' compensation for state employees
1 15 and management of state property.
1 16 b. Coordinating the state's central data repository for
1 17 claims and risk information.
1 18 c. Managing the state liability fund created in section
1 19 669.11A as required by the director, including but not limited
1 20 to applying the rating formula adopted by the state appeal
1 21 board and assessing premiums to state agencies pursuant to
1 22 section 669.11A.
1 23 Sec. 2. Section 8A.512, subsection 1, paragraph b,
1 24 subparagraph (3), Code 2005, is amended to read as follows:
1 25 (3) Claims approved by an agency according to the
1 26 provisions of ~~sections 25.1 and section 25.2.~~
1 27 Sec. 3. Section 22.7, subsection 32, Code 2005, is amended
1 28 to read as follows:
1 29 32. Social security numbers of the owners of unclaimed
1 30 property reported to the treasurer of state pursuant to
1 31 section 556.11, subsection 2, included on claim forms filed
1 32 with the treasurer of state pursuant to section 556.19,
1 33 included in outdated warrant reports received by the treasurer
1 34 of state pursuant to section ~~25.2~~ 556.2C, or stored in record
1 35 systems maintained by the treasurer of state for purposes of
2 1 administering chapter 556, or social security numbers of
2 2 payees included on state warrants included in records systems
2 3 maintained by the department of administrative services for
2 4 the purpose of documenting and tracking outdated warrants
2 5 pursuant to section ~~25.2~~ 556.2C.
2 6 Sec. 4. Section 25.1, subsection 1, Code 2005, is amended
2 7 to read as follows:
2 8 1. ~~When Except for those claims that are addressed as~~
2 9 ~~provided in section 25.2, subsection 2, when~~ a claim is filed
2 10 or made against the state, on which in the judgment of the
2 11 director of the department of management the state would be
2 12 liable except for the fact of its sovereignty or that it has
2 13 no appropriation available for its payment, the director of

2 14 the department of management shall deliver that claim to the
2 15 state appeal board. However, this chapter does not apply to a
2 16 claim as defined in section 669.2.

2 17 Sec. 5. Section 25.1, subsection 3, Code 2005, is amended
2 18 by striking the subsection.

2 19 Sec. 6. Section 25.1, unnumbered paragraph 1, Code 2005,
2 20 is amended by striking the unnumbered paragraph.

2 21 Sec. 7. Section 25.2, subsection 1, unnumbered paragraph
2 22 1, Code 2005, is amended to read as follows:

2 23 The state appeal board with the recommendation of the
2 24 special assistant attorney general for claims may approve or
2 25 reject claims against the state of less than ~~ten~~ five years
2 26 involving the following:

2 27 Sec. 8. Section 25.2, subsection 1, paragraph a, Code
2 28 2005, is amended by striking the paragraph.

2 29 Sec. 9. Section 25.2, Code 2005, is amended by adding the
2 30 following new subsection:

2 31 NEW SUBSECTION. 1A. Notwithstanding the time period
2 32 specified in subsection 1, the state appeal board may approve
2 33 or reject a claim against the state of five years or more,
2 34 provided an error was made by the state or the claim involves
2 35 a dispute that commenced five years or more prior.

3 1 Sec. 10. Section 25.2, subsection 2, Code 2005, is amended
3 2 to read as follows:

3 3 2. a. A claim that is based on an outdated invoice or
3 4 outdated bill for merchandise, or a claim for services

3 5 furnished to the state, shall be submitted by the person
3 6 filing the claim directly to the agency against whom the claim
3 7 is made, provided both of the following conditions apply:

3 8 (1) The goods or services were provided in the same fiscal
3 9 year that the claim is filed or in the fiscal year immediately
3 10 preceding the fiscal year that the claim was filed.

3 11 (2) The goods or services are charged to the general fund
3 12 of the state or to a funding source other than the general
3 13 fund of the state that does not revert.

3 14 The department of administrative services staff performing
3 15 financial administration duties under chapter 8A, subchapter
3 16 V, shall establish reporting requirements for dealing with
3 17 claims under this lettered paragraph as necessary to conform
3 18 with generally accepted accounting principles.

3 19 b. A claim that is subject to paragraph "a" must be
3 20 originally submitted within two years of the date the
3 21 merchandise or services were furnished. However, this
3 22 requirement may be waived by the agency to address a change in
3 23 circumstances such as a court ruling or another government
3 24 action that made submission of the invoice or bill within the
3 25 two-year period impossible or unreasonable.

3 26 c. Notwithstanding subsection 1, an An agency that
3 27 receives a claim based on an outdated invoice, outdated bill
3 28 for merchandise, or for services furnished to the state
3 29 pursuant to section 25.1, subsection 3, that is subject to
3 30 paragraph "a" may on its own approve or deny the claim. The

3 31 agency shall provide the state appeal board with notification
3 32 of receipt of the claim and action taken on the claim by the
3 33 agency. The state appeal board shall adopt rules setting
3 34 forth the procedures and standards for resolution of claims by
3 35 state agencies. Claims denied by an agency shall be forwarded
4 1 to the state appeal board by the agency for further
4 2 consideration, in accordance with this chapter.

4 3 Sec. 11. Section 25.2, subsection 4, Code 2005, is amended
4 4 by striking the subsection and inserting in lieu thereof the
4 5 following:

4 6 4. Outdated state warrants shall be addressed as provided
4 7 in section 556.2C.

4 8 Sec. 12. Section 25.2, subsection 5, Code 2005, is amended
4 9 by striking the subsection.

4 10 Sec. 13. NEW SECTION. 556.2C OUTDATED STATE WARRANTS.

4 11 1. The director of the department of administrative
4 12 services may reissue an outdated state warrant that has not
4 13 been reported under subsection 2.

4 14 2. On or before July 1 of each year, a state agency shall
4 15 report to the director of the department of administrative
4 16 services the payee and the underlying obligation for each
4 17 unpaid warrant authorized by the agency that has been outdated
4 18 for two years or more and has not been previously reported.
4 19 On or before November 1 of each year, the director of the
4 20 department of administrative services shall provide the
4 21 treasurer of state with a consolidated list of all unpaid
4 22 state warrants which have been outdated for two years or more
4 23 that were reported by the state agencies along with supporting
4 24 information as specified by the treasurer of state. The

4 25 underlying obligations for the unpaid warrants contained in
4 26 the list submitted to the treasurer shall be presumed to be
4 27 abandoned property under section 556.8 and shall be paid to
4 28 the treasurer of state as provided in section 556.13. The
4 29 treasurer may include information regarding outdated warrants
4 30 in the notice published pursuant to section 556.12.

4 31 3. An agreement to pay compensation to recover or assist
4 32 in the recovery of an outdated warrant made within twenty-four
4 33 months after the date the warrant becomes outdated is
4 34 unenforceable. However, an agreement made after twenty-four
4 35 months from the date the warrant becomes outdated is valid if
5 1 the fee or compensation agreed upon is not more than fifteen
5 2 percent of the recoverable property, the agreement is in
5 3 writing and signed by the payee, and the writing discloses the
5 4 nature and value of the property and the name and address of
5 5 the person in possession. This subsection does not apply to a
5 6 payee who has a bona fide fee contract with a practicing
5 7 attorney regulated under chapter 602, article 10.

5 8 Sec. 14. Section 669.2, subsection 2, Code 2005, is
5 9 amended to read as follows:

5 10 2. "Award" means any amount determined by the ~~state appeal~~
5 11 ~~board attorney general~~ to be payable to a claimant under
5 12 section 669.3, and the amount of any compromise or settlement
5 13 under section 669.9.

5 14 Sec. 15. Section 669.2, Code 2005, is amended by adding
5 15 the following new subsection:

5 16 NEW SUBSECTION. 4A. "Risk management coordinator" means
5 17 the person designated by the director of the department of
5 18 management under section 8.6 to serve as the executive
5 19 branch's risk management coordinator.

5 20 Sec. 16. Section 669.3, Code 2005, is amended to read as
5 21 follows:

5 22 669.3 ADJUSTMENT AND SETTLEMENT OF CLAIMS.

5 23 ~~1. Authority is hereby conferred upon the state appeal~~
5 24 ~~board, acting The attorney general, on behalf of the state of~~
5 25 ~~Iowa, subject to the advice and approval of in consultation~~
5 26 ~~with the attorney general risk management coordinator, to~~
5 27 ~~shall consider, ascertain, adjust, compromise, settle,~~
5 28 ~~determine, and allow any claim as defined in that is subject~~
5 29 ~~to this chapter. If any claim is compromised, settled, or~~
5 30 ~~allowed in an amount of more than five thousand dollars, the~~
5 31 ~~unanimous approval of all members of the state appeal board~~
5 32 ~~and the attorney general shall be required and the approval of~~
5 33 ~~the district court of the state of Iowa for Polk county shall~~
5 34 ~~also be required.~~

5 35 ~~2. Claims A claim~~ made under this chapter shall be filed
6 1 with the director of ~~the department of management~~, who shall
6 2 acknowledge receipt on behalf of the state ~~appeal board~~.

6 3 3. The state appeal board shall adopt rules and procedures
6 4 for the handling, processing, and investigation of claims,
6 5 ~~according to the provisions of the Iowa administrative~~
6 6 ~~procedure Act, in accordance with chapter 17A.~~

6 7 Sec. 17. Section 669.4, unnumbered paragraph 5, Code 2005,
6 8 is amended by striking the unnumbered paragraph.

6 9 Sec. 18. Section 669.5, Code 2005, is amended to read as
6 10 follows:

6 11 669.5 WHEN SUIT PERMITTED == EMPLOYEES OF THE STATE.

6 12 ~~1. No A suit shall not be permitted for a claim under this~~
6 13 ~~chapter unless the state appeal board attorney general has~~
6 14 ~~made final disposition of the claim, except that if, However,~~
6 15 ~~if the state appeal board attorney general does not make final~~
6 16 ~~disposition of a claim within six months after the claim is~~
6 17 ~~made in writing to the state appeal board director of the~~
6 18 ~~department of management, the claimant may, by notice in~~
6 19 ~~writing, withdraw the claim from consideration of the state~~
6 20 ~~appeal board and begin suit under this chapter. Disposition~~
6 21 ~~of or offer to settle any claim made under this chapter shall~~
6 22 ~~not be competent evidence of liability or amount of damages in~~
6 23 ~~any suit under this chapter.~~

6 24 2. a. ~~Upon certification by the attorney general that a~~
6 25 ~~defendant in a suit was an employee of the state acting within~~
6 26 ~~the scope of the employee's office or employment at the time~~
6 27 ~~of the incident upon which the claim is based, the suit~~
6 28 ~~commenced upon the claim shall be deemed to be an action~~
6 29 ~~against the state under the provisions of this chapter and if~~
6 30 ~~the state is not already a defendant, the state shall be~~
6 31 ~~substituted as the defendant in place of the employee.~~

6 32 b. ~~If the attorney general refuses to certify that a~~
6 33 ~~defendant was acting within the scope of the defendant's~~
6 34 ~~office or employment as described in paragraph "a" at the time~~
6 35 ~~of the incident out of which the claim arose, the defendant~~

7 1 may at any time before trial petition the court, with notice
7 2 to the attorney general, for the court to find and certify
7 3 that the defendant was an employee of the state and acting
7 4 within the scope of the defendant's office or employment. If
7 5 the court issues the finding and certification, the suit shall
7 6 be deemed to be brought against the state and subject to the
7 7 provisions of this chapter and the state shall be substituted
7 8 as the defendant party unless the state is already a
7 9 defendant.

7 10 Sec. 19. NEW SECTION. 669.11A STATE LIABILITY FUND.
7 11 1. The state liability fund is created in the state
7 12 treasury under the control of the state appeal board. The
7 13 fund shall be used to pay awards and judgments entered under
7 14 this chapter, including but not limited to indemnification
7 15 owed under section 669.21 or 669.22, and the state costs for
7 16 risk management, investigation, and defense and representation
7 17 for the state and for employees of the state involving the
7 18 claims, suits, or other proceedings subject to this chapter.
7 19 2. The state appeal board, based upon advice provided by
7 20 the attorney general and the risk management coordinator,
7 21 shall establish a rating formula to be used in assessing
7 22 premiums to state agencies and the divisions of state
7 23 agencies, as appropriate. The premium assessments shall apply
7 24 to state agencies and divisions that operate with moneys from
7 25 the general fund of the state or any other funding source.
7 26 The director of the department of management shall credit the
7 27 premiums assessed and any other moneys received for purposes
7 28 of the state liability fund to the state liability fund.
7 29 Moneys in the fund are appropriated to the department of
7 30 management to be used for the purposes listed in subsection 1.
7 31 Notwithstanding section 8.33, moneys credited to the state
7 32 liability fund that remain unencumbered or unobligated at the
7 33 close of the fiscal year shall not revert to any other fund
7 34 but shall remain available for expenditure for the purposes
7 35 designated in succeeding fiscal years.

8 1 3. The state appeal board, based upon advice provided by
8 2 the attorney general and the risk management coordinator, may
8 3 enter into a chapter 28E agreement to authorize a state agency
8 4 to address the agency's liability under this chapter
8 5 separately from the process utilized for the state liability
8 6 fund as authorized pursuant to this section.

8 7 Sec. 20. Section 669.13, Code 2005, is amended to read as
8 8 follows:

8 9 669.13 LIMITATION OF ACTIONS.

8 10 1. ~~Every~~ A claim and or suit otherwise permitted under
8 11 this chapter shall be forever barred, unless within two years
8 12 after ~~such the~~ claim accrued, the claim is made in writing to
8 13 ~~and filed with the state appeal board director of the~~
8 14 ~~department of management~~ under this chapter. The time to
8 15 begin a suit under this chapter shall be extended for a period
8 16 of six months from the date of mailing of notice to the
8 17 claimant by the ~~state appeal board attorney general~~ as to the
8 18 final disposition of the claim or from the date of withdrawal
8 19 of the claim ~~from the state appeal board~~ under section 669.5,
8 20 if the time to begin suit would otherwise expire before the
8 21 end of ~~such the~~ period.

8 22 2. If a claim is made or filed under any other law of this
8 23 state and a determination is made by a state agency or court
8 24 that this chapter provides the exclusive remedy for the claim,
8 25 the ~~time two-year period authorized in subsection 1~~ to make a
8 26 claim and to begin a suit under this chapter shall be extended
8 27 for a period of six months from the date of the court order
8 28 making such determination or the date of mailing of notice to
8 29 the claimant of such determination by a state agency, if the
8 30 time to make the claim and to begin the suit under this
8 31 chapter would otherwise expire before the end of ~~such the two=~~
8 32 ~~year~~ period. The time to begin a suit under this chapter may
8 33 be further extended as provided in ~~the preceding paragraph~~
8 34 ~~subsection 1.~~

8 35 3. This section is the only statute of limitations
9 1 applicable to claims as defined in this chapter.

9 2 Sec. 21. Section 669.15, Code 2005, is amended to read as
9 3 follows:

9 4 669.15 ~~ATTORNEY'S~~ ATTORNEY FEES AND EXPENSES.

9 5 The court rendering a judgment for ~~the a~~ claimant under
9 6 this chapter, ~~or the state appeal board, with the advice and~~
9 7 ~~approval of the attorney general, making an award under~~
9 8 ~~section 669.3, or the attorney general making an award under~~
9 9 ~~section 669.9, as the case may be, shall, as a part of the~~
9 10 judgment or award, determine and allow reasonable ~~attorney's~~
9 11 ~~attorney~~ fees and expenses, ~~to.~~ The attorney fees and

9 12 expenses shall be paid out of but not in addition to the
9 13 amount of judgment or award recovered, to the attorneys
9 14 representing the claimant. Any attorney who charges, demands,
9 15 receives, or collects for services rendered in connection with
9 16 such claim any amount in excess of that allowed under this
9 17 section, if recovery be had, shall be guilty of a serious
9 18 misdemeanor.
9 19 Sec. 22. Section 669.18, Code 2005, is amended to read as
9 20 follows:
9 21 669.18 EXTENSION OF TIME.
9 22 If a claim is made or a suit is begun under this chapter,
9 23 and if a determination is made by the ~~state appeal board~~
9 24 attorney general or by the court that the claim or suit is not
9 25 permitted under this chapter for any reason other than lapse
9 26 of time, the time to make a claim or to begin a suit under any
9 27 other applicable law of this state shall be extended for a
9 28 period of six months from the date of the court order making
9 29 such determination or the date of mailing of notice to the
9 30 claimant of such determination by the ~~state appeal board~~
9 31 attorney general, if the time to make the claim or begin the
9 32 suit under such other law would otherwise expire before the
9 33 end of such period.
9 34 Sec. 23. Section 669.19, Code 2005, is amended to read as
9 35 follows:
10 1 669.19 ~~INVESTIGATION OF CLAIMS BEFORE APPEAL BOARD.~~
10 2 ~~Chapter 25 does not apply to claims as defined in this~~
10 3 ~~chapter. However, any or all of the provisions of sections~~
10 4 ~~25.1, 25.4, and 25.5 may be made applicable to claims as~~
10 5 ~~defined in this chapter by agreement between the attorney~~
10 6 ~~general and the state appeal board from time to time. The~~
10 7 attorney general shall fully investigate each claim under this
10 8 chapter and may exercise the authority provided in section
10 9 25.5 in performing the investigation.
10 10 Sec. 24. Section 669.20, Code 2005, is amended to read as
10 11 follows:
10 12 669.20 LIABILITY INSURANCE.
10 13 1. ~~Whenever~~ If a claim or suit against the state is
10 14 covered by liability insurance, the provisions of the
10 15 liability insurance policy on defense and settlement shall be
10 16 applicable notwithstanding any inconsistent provisions of this
10 17 chapter. The attorney general ~~and the state appeal board~~
10 18 ~~shall co-operate~~ cooperate with the insurance company.
10 19 2. The department of management, subject to the advice and
10 20 approval of the attorney general, may utilize moneys
10 21 appropriated from the state liability fund to purchase
10 22 liability insurance to cover risks or areas of potential
10 23 liability, as determined by the board.
10 24 Sec. 25. EFFECTIVE AND APPLICABILITY DATES.
10 25 1. Section 669.11A, as enacted by this Act, takes effect
10 26 July 1, 2006.
10 27 2. The duties of the executive branch risk coordinator
10 28 position implemented pursuant to this Act, in regard to the
10 29 state liability fund created in section 669.11A, shall
10 30 commence July 1, 2005, for purposes of planning for the
10 31 assessment of premiums to state agencies commencing in the
10 32 fiscal year beginning July 1, 2006. State agencies shall not
10 33 be subject to an assessment for state liability under section
10 34 669.11A before July 1, 2006.
10 35 3. The authority of the department of management to
11 1 utilize moneys appropriated from the state liability fund to
11 2 purchase liability insurance in accordance with section
11 3 669.20, subsection 2, as amended by this Act, applies
11 4 beginning July 1, 2006.
11 5 EXPLANATION
11 6 This bill relates to settlement of state financial and tort
11 7 claims, establishes a state liability fund, and provides for
11 8 charging of costs for the fund to state departments.
11 9 Code section 8.6, relating to the duties of the director of
11 10 the department of management, is amended to include
11 11 administration of the state liability fund created in the bill
11 12 among the duties of the director. In addition, the director
11 13 is required to designate a position within the department of
11 14 management to serve as the executive branch's risk management
11 15 coordinator and delineates the coordinator's duties. The
11 16 coordinator has additional responsibilities involving state
11 17 tort claims that are included in the bill's amendments to Code
11 18 chapter 669.
11 19 Code section 22.7, relating to the list of records that are
11 20 kept confidential under the public records law, and Code
11 21 section 8A.512, relating to the authority of the director of
11 22 administrative services to settle claims, are amended to

11 23 change references to Code sections to conform with the changes
11 24 made by the bill.

11 25 Code section 25.1, relating to receipt, investigation, and
11 26 reporting for claims against the state or by the state, is
11 27 amended. Under current law outdated invoices and bills and
11 28 claims for services provided in the same fiscal year in which
11 29 the claim is filed must be submitted to the agency against
11 30 whom the claim is made. The bill moves the authority for an
11 31 agency to settle claims to Code section 25.2. The bill limits
11 32 this requirement to claims for goods and services provided in
11 33 the current fiscal year and the fiscal year immediately
11 34 preceding the fiscal year that the claim is filed. Current
11 35 law does not apply a time limit on the age of such claims. In
12 1 addition, the bill applies a similar requirement to claims
12 2 charged to a funding source other than the general fund,
12 3 providing the funding source does not revert.

12 4 Code section 25.1 is also amended to provide that Code
12 5 chapter 25 does not apply to a state tort claim under Code
12 6 chapter 669.

12 7 Code section 25.2, relating to claims considered by the
12 8 state appeal board, is amended. Current law authorizes the
12 9 board to consider claims of less than 10 years and the bill
12 10 reduces this to claims of less than five years. However, the
12 11 bill allows the appeal board to consider a claim of five years
12 12 or more provided an error was made by the state or the claim
12 13 has been disputed for five years or more.

12 14 Code section 25.2 is also amended to require that a claim
12 15 based on an outdated invoice, outdated bill for merchandise,
12 16 or for services be originally submitted within two years of
12 17 the date the merchandise or services were furnished. However,
12 18 this requirement may be waived by the agency if there was a
12 19 court ruling or another government action that made submission
12 20 of the invoice or bill within the two-year period impossible
12 21 or unreasonable.

12 22 Code section 25.2 is also amended to strike provisions
12 23 regarding the processing of claims involving outdated state
12 24 warrants by the department of administrative services.
12 25 Instead the bill moves the provisions for outdated warrants to
12 26 new Code section 556.2C in the Code chapter relating to
12 27 unclaimed property. Agencies are required to annually report
12 28 outdated warrants that are more than two years old and the
12 29 underlying obligations to the director of the department of
12 30 administrative services and the director is required to report
12 31 this information to the treasurer of state. The underlying
12 32 obligations associated with the unpaid warrants are required
12 33 to be paid to the treasurer of state for processing as
12 34 unclaimed property.

12 35 Code section 669.2, providing definitions for the state
13 1 tort claims Code chapter, is amended to provide a new
13 2 definition of the term "risk management coordinator" for the
13 3 new position designated in the department of management in
13 4 accordance with the bill.

13 5 Code section 669.3 is amended to authorize the attorney
13 6 general to act to adjust and settle state tort claims in place
13 7 of the state appeal board. The board retains the
13 8 responsibility under current law to adopt rules for the
13 9 handling, processing, and investigation of claims. The bill
13 10 requires tort claims to be filed with the director of the
13 11 department of management instead of the state appeal board.
13 12 Code sections 669.2 and 669.13 are amended to conform with
13 13 these changes.

13 14 A requirement in Code section 669.4 for service of notice
13 15 of a suit against a state employee and allowing the state
13 16 employee to appear is repealed. Instead, Code section 669.5,
13 17 relating to when suits are permitted, is amended to provide
13 18 that if the attorney general certifies that a state employee
13 19 named as a defendant in a suit was acting within the scope of
13 20 the employee's office or employment at the time of the
13 21 incident upon which the claim is based, the state is
13 22 substituted as the defendant in place of the employee, unless
13 23 the state was already named as a defendant in the suit. If
13 24 the attorney general refuses to certify the state employee was
13 25 acting within the scope of the employee's office or
13 26 employment, the employee may petition the court to issue that
13 27 certification.

13 28 New Code section 669.11A creates the state liability fund.
13 29 The purpose of the fund is to pay state tort awards and
13 30 judgments, indemnities, and state costs for risk management,
13 31 investigation, and defense and representation costs. The
13 32 state appeal board is required to establish a rating formula
13 33 to be used in assessing premiums to state agencies, which

13 34 premiums are to be deposited in the fund. The moneys in the
13 35 fund are appropriated to the department of management to be
14 1 used for the purposes of the fund. The state appeal board is
14 2 authorized to enter into a chapter 28E agreement to allow a
14 3 state agency to manage the agency's liability separately from
14 4 the fund. The liability fund provisions take effect July 1,
14 5 2006, and are applicable on and after that date.

14 6 Code sections 669.15 and 669.18 are amended to authorize
14 7 the attorney general, instead of the state appeal board, to
14 8 determine attorney fees and expenses and extensions of time
14 9 for suits.

14 10 Code section 669.19, relating to claims before the appeal
14 11 board, is amended to provide the attorney general with
14 12 authority to investigate each state tort claim instead of the
14 13 state appeal board. The attorney general may exercise the
14 14 authority under Code section 25.5, which provides for taking
14 15 testimony through affidavits and other means, administering
14 16 oaths, compelling the testimony of witnesses, and certifying
14 17 to the district court for contempt. The bill eliminates
14 18 language providing that Code chapter 25, relating to other
14 19 types of state claims, does not apply to Code chapter 669 but
14 20 allows the attorney general to make certain provisions of Code
14 21 chapter 25 applicable by agreement with the state appeal
14 22 board.

14 23 Code section 669.20, relating to liability insurance, is
14 24 amended to authorize the state appeal board, with the approval
14 25 of the attorney general, to utilize moneys appropriated from
14 26 the state liability fund to purchase liability insurance to
14 27 cover risks or areas of potential liability. This authority
14 28 applies beginning July 1, 2006.

14 29 LSB 3490XC 81

14 30 jp:nh/sh/8